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**TITLE 327 WATER POLLUTION CONTROL DIVISION****SECOND NOTICE OF COMMENT PERIOD**

LSA Document #20-26

**WATER PROGRAM PERMITTING FEES****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules in [327 IAC 3-5-5](#), [327 IAC 5-3-2](#), [327 IAC 5-21-3](#), [327 IAC 8-3-7](#), [327 IAC 15-16-5](#), [327 IAC 15-16-10](#), and [327 IAC 19-7-1](#) and the addition of [327 IAC 5-3-17](#), [327 IAC 5-21-12](#), and [327 IAC 19-9-2](#) concerning water program permit fees and other directly associated fees as required by the 2019 General Assembly's House Enrolled Act (HEA) 1278, which became Public Law 250-2019. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.

**HISTORY**

First Notice of Comment Period: February 19, 2020, Indiana Register (DIN: [20200219-IR-327200026FNA](#)).

**CITATIONS AFFECTED:** [327 IAC 3-5-5](#); [327 IAC 5-3-2](#); [327 IAC 5-3-17](#); [327 IAC 5-21-3](#); [327 IAC 5-21-12](#); [327 IAC 8-3-7](#); [327 IAC 15-16-5](#); [327 IAC 15-16-10](#); [327 IAC 19-7-1](#); [327 IAC 19-9-2](#).

**AUTHORITY:** [IC 4-22-2](#); [IC 13-14-9](#); [IC 13-16](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

HEA 1278, also referred to as Public Law 250-2019, was passed by the 2019 General Assembly to amend the process in [IC 13-16](#) concerning the adoption of environmental fees by the Environmental Rules Board (board). To establish or change the amount of a fee, the board is required to take into account the costs to IDEM for: (1) issuance or approval of a permit; (2) services in connection with supervision, review, and other activities related to the issuance or approval of a permit; (3) surveillance of the activity or property covered by the permit issuance or approval; (4) amendments, modifications, and renewals of a permit or approval; and (5) fees charged for equivalent activities in other states. IDEM is to assist the board in doing a periodic review of fees by: (1) arranging for an independent study of the costs that the board may consider; (2) developing information on fees charged for equivalent activities in other states; and (3) periodically developing information on activities, functions, and permits that have been added or eliminated since the previous fee structure was adopted. The board may direct IDEM to initiate a rulemaking under [IC 13-14-9](#) to address fees based on the information collected by IDEM and presented to the board. Public Law 250-2019 also establishes that the board may not change fees more than one time in five years and the fee increase may not amount to more than ten percent.

In addition to the process established in [IC 13-16](#) for future rulemakings to increase environmental fees, Public Law 250-2019 requires the board to adopt rules once before January 1, 2022, to increase the amount of the fees for water-related programs under [IC 13-18-10](#), [IC 13-18-20](#), and [IC 13-18-20.5](#) along with fees for solid waste and hazardous waste programs under [IC 13-20-21](#) and [IC 13-22-12](#) by an aggregate amount of \$3,200,000 greater than the aggregate fee revenue actually received in the year immediately preceding the proposed fee increases.

This rulemaking addresses the one-time fee increases required under Public Law 250-2019 for [IC 13-18-10](#), [IC 13-18-20](#), and [IC 13-18-20.5](#), regarding confined feeding operations, NPDES permits, and public water systems, respectively. The fees associated with issuing permits, amendments, modifications, and renewals have not changed since 1996 for NPDES permits, 2003 for public water system permits, and 1997 for confined feeding operation permits. The legislatively allowed fee increase of an aggregate of \$3,200,000 is shared among the affected fees in the water and waste programs and in Titles 327 and 329. IDEM's decisions regarding the amount of the fee increases took into consideration the fees charged for similar activities in other states that are in the United States Environmental Protection Agency's Region 5 and Kentucky.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 327 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking in accordance with Public Law 250-2019. Additional information about the specific fee changes can be found at: [https://www.in.gov/idem/legal/files/rulemaking\\_fee\\_spreadsheet.pdf](https://www.in.gov/idem/legal/files/rulemaking_fee_spreadsheet.pdf).

**[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law**

The following elements of the draft rule impose either a restriction or a requirement on persons to whom the draft rule applies that is "not imposed under federal law" (NIFL element or elements):

The following information is provided with each NIFL element:

- (1) The environmental circumstance or hazard dictating the imposition of the NIFL element in order to protect

human health and the environment in Indiana; and examples in which federal law is inadequate to provide this protection for Indiana.

(2) The estimated fiscal impact and expected benefits of the NIFL element, based on the extent to which the NIFL element exceeds the requirements of federal law.

(3) The availability for public inspection of all materials relied on by IDEM in the development of the NIFL element including, if applicable: health criteria, analytical methods, treatment technology, economic impact data, environmental assessment data, analyses of methods to effectively implement the proposed rule, and other background data.

NIFL Element (A) The increase of water-related fees in accordance with Public Law 250-2019.

(1) The increase in fees is to support Indiana water programs including federally delegated water programs.

(2) The expected impact to regulated entities is a total of approximately \$1,490,110 in the next year and will provide benefits to the state's ability to operate the programs.

(3) Public Law 250-2019, IDEM Permit Cost of Service Analysis, and IDEM Proposed Fee Increases.

#### **Potential Fiscal Impact**

This rulemaking has no fiscal impact beyond that imposed by Public Law 250-2019. It will result in a fiscal impact on regulated entities in increased fee amounts for water-related activities of a total of approximately \$1,490,110 in the next year and a positive fiscal impact on the state in the same amount in collected fees. The increases in fees collected by IDEM will be used to fund its work of issuing permits to wastewater and drinking water treatment plants.

#### **Public Participation and Work Group Information**

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel at (317) 232-8635 or (800) 451-6027 (in Indiana).

#### **SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from February 19, 2020, through March 20, 2020, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received no comments in response to the First Notice of Comment Period.

#### **REQUEST FOR PUBLIC COMMENTS**

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #20-26 Water Program Permitting Fees

MaryAnn Stevens

Rules Development Branch

Office of Legal Counsel

Indiana Department of Environmental Management

Indiana Government Center North

100 North Senate Avenue

Indianapolis, IN 46204-2251

(2) By electronic mail to [mstevens@idem.in.gov](mailto:mstevens@idem.in.gov). To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

Contact Karla Kindrick at [kkindric@idem.in.gov](mailto:kkindric@idem.in.gov) or (317) 232-8922 if another method of submitting comments within the comment period is desired. Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

#### **COMMENT PERIOD DEADLINE**

All comments must be postmarked, or time stamped not later than July 2, 2021.

Additional information regarding this action may be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232-8635 or (800) 451-6027 (in Indiana).

#### **DRAFT RULE**

SECTION 1. [327 IAC 3-5-5](#) IS AMENDED TO READ AS FOLLOWS:

#### **[327 IAC 3-5-5](#) Fees**

**Authority:** [IC 13-13-5-2](#); [IC 13-14-8](#); [IC 13-16](#); [IC 13-18-4-1](#)

**Affected:** [IC 36-1-2-23](#)

Sec. 5. (a) The following governmental entities shall remit with each **construction permit** application made under this article a fee of ~~fifty dollars (\$50)~~ **one hundred dollars (\$100)** but shall be excluded from payment of fee as described ~~the fees~~ in subsection (b): **(b)(1):**

- (1) County, municipality, or township, which is defined as a unit under [IC 36-1-2-23](#).
- (2) A nonprofit organization.
- (3) A conservancy district.
- (4) A school corporation that operates a sewage treatment facility.
- (5) A regional water or sewage district.

(b) The following fee schedule has been established to defray administrative costs under [IC 13-16-1](#): **fees must be remitted by entities not listed in subsection (a) at the time a construction permit application is submitted to the department:**

**(1) The fees for wastewater treatment construction permits are as follows:**

TYPE	PROCESSING FEE
New wastewater treatment plant (except industrial):	
Up to 500,000 gallons per day	\$1,250
Greater than 500,000 gallons per day	\$2,500
New industrial wastewater treatment plant (including pretreatment):	
Up to 500,000 gallons per day for:	
Biological or chemical treatment	\$1,250
Physical treatment	\$ 250
Greater than 500,000 gallons per day for:	
Biological or chemical treatment	\$2,500
Physical treatment	\$ 500
WWTP expansion:	
Up to fifty percent (50%) design capacity:	
Greater than 500,000 gallons per day	\$1,250
Up to 500,000 gallons per day	\$ 625
Greater than fifty percent (50%) design capacity:	
Greater than 500,000 gallons per day	\$2,500
Up to 500,000 gallons per day	\$1,250

**(2) A fee of one hundred dollars (\$100) must be submitted with each new or modified sanitary sewer construction permit application.**

~~(c) A fee shall be remitted with each application made in accordance with the schedule in subsection (b). Checks shall be made payable to the department of environmental management.~~

~~(d) (c) The fee shall is not be refundable once after staff review and processing of the permit application has commenced.~~

*(Water Pollution Control Division; [327 IAC 3-5-5](#); filed Sep 24, 1987, 3:00 p.m.: 11 IR 611; filed Oct 22, 1991, 5:00 p.m.: 15 IR 220; errata, 15 IR 1024; filed Sep 3, 1996, 3:00 p.m.: 20 IR 11; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: [20071219-IR-327070553BFA](#); readopted filed Jul 29, 2013, 9:21 a.m.: [20130828-IR-327130176BFA](#); errata filed Jul 31, 2017, 11:06 a.m.: [20170809-IR-327170349ACA](#); readopted filed Jun 14, 2019, 1:59 p.m.: [20190710-IR-327190246BFA](#))*

SECTION 2. [327 IAC 5-3-2](#) IS AMENDED TO READ AS FOLLOWS:

**[327 IAC 5-3-2](#) Application requirements**

**Authority:** [IC 13-14-8](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-16](#); [IC 13-18-3](#)

**Affected:** [IC 13-18](#)

Sec. 2. (a) Persons currently discharging pollutants under an existing NPDES permit shall submit a new application **as follows:**

- (1) Under subsection (b) where facility expansions, production increases, or process modifications will:
  - (i) result in new or substantially increased discharges of pollutants or a change in the nature of the discharge of pollutants; or
  - (ii) violate the terms and conditions of the existing permit.
- (2) At least one hundred eighty (180) days prior to the expiration date of the existing permit, unless a later date is allowed by the commissioner.

(b) ~~(4)~~ A person proposing a new discharge of pollutants shall submit an application **according to the following:**

- (1) **The application must be submitted** at least one hundred eighty (180) days before the date ~~on which~~ **when** the discharge is to commence, unless a later date is allowed by the commissioner.
- (2) Persons planning to operate a facility ~~which that~~ is a new source or a new discharger and ~~which that~~ may fall ~~within~~ **under** the coverage of an existing general permit shall submit an NPDES application under this section and state that ~~such an~~ **an** existing general permit may cover the facility's discharge.

(c) The commissioner ~~will~~ **shall** review the application **under subsection (b)(2)** and:

(1) ~~if he concludes that the applicant's proposed discharge falls within the coverage of the general permit, he will so~~ **the commissioner shall:**

- (i) notify the applicant ~~of that fact~~ **coverage under the general permit applies;** and
  - (ii) suspend further processing of the application; **or**
- (2) ~~if the~~ **coverage under a** general permit does not apply to the applicant's proposed discharge, the commissioner shall process the application as for an individual NPDES permit **according to this article.**

~~(e)~~ (d) All applications required under this section ~~shall~~ **must** be:

- (1) completed in accordance with [327 IAC 5-2-3](#) and applicable instructions;
- (2) signed pursuant to [327 IAC 5-2-22](#); and
- (3) submitted with the appropriate fee **under section 17 of this rule** to the department of environmental management.

~~(d)~~ (e) Except for decisions to modify, revoke and reissue, or terminate a permit, no NPDES permit other than a general permit ~~shall~~ **may** be issued until the applicant has filed a complete application that complies with the filing requirements in this rule. ~~(327 IAC 5-3)~~. If an applicant fails or refuses to correct deficiencies in its NPDES application form, the permit may be denied or appropriate enforcement action may be taken under [327 IAC 5-2-20](#).

~~(e)~~ (f) If the commissioner determines that further information or a site visit is necessary in order to evaluate the discharge completely and accurately, **the commissioner shall:**

- (1) **notify** the applicant; ~~shall be notified and~~
- (2) **schedule** a date ~~shall be scheduled for:~~
  - (i) receipt of the requested information; and for
  - (ii) any necessary site visit.

~~(f)~~ (g) Special procedures for applications for variances and statutory modifications are provided in [327 IAC 5-3-4](#) and [327 IAC 5-3-13](#).

~~(g)~~ (h) In the case of a person discharging or proposing to discharge pollutants from more than one point source, an appropriate application form ~~shall~~ **must** be submitted for each point source discharge.

*(Water Pollution Control Division; [327 IAC 5-3-2](#); filed Sep 24, 1987, 3:00 p.m.: 11 IR 634; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: [20071219-IR-327070553BFA](#); readopted filed Jul 29, 2013, 9:21 a.m.: [20130828-IR-327130176BFA](#))*

SECTION 3. [327 IAC 5-3-17](#) IS ADDED TO READ AS FOLLOWS:

**[327 IAC 5-3-17](#) NPDES application and annual fees**

Authority: [IC 13-13-5-2](#); [IC 13-14-8](#); [IC 13-16](#); [IC 13-18-4-1](#); [IC 13-18-18](#)

Affected: [IC 36-1-2-23](#)

Sec. 17. (a) The fees in this section apply to NPDES permit applications and annual operations as follows:

- (1) Fees are not refundable once staff review and processing of the permit application has commenced.
- (2) Application and annual operating fees are as follows:
  - (A) NPDES industrial permits are in subsection (b).
  - (B) NPDES coal mine facility permits are in subsection (c).
  - (C) NPDES stone quarry permits are in subsection (d).
  - (D) NPDES municipal permits are in subsection (e).
  - (E) NPDES state facility permits are in subsection (f).
  - (F) NPDES federal facility permits are in subsection (g).
  - (G) NPDES semipublic facility permits are in subsection (h).
  - (H) NPDES public water system permits are in subsection (i).
  - (I) NPDES stormwater general permits are in subsection (j).

(b) For NPDES industrial permits, other than coal mine permits or stone quarry permits, the permittee shall submit the following fees:

- (1) An NPDES application fee for a new or renewed NPDES permit according to the following:
  - (A) One hundred dollars (\$100) for a major industrial facility.
  - (B) One hundred dollars (\$100) for a minor industrial facility.
- (2) An NPDES application fee for an NPDES permit modification request or variance request according to the following:
  - (A) Fifty dollars (\$50) for a major industrial facility.
  - (B) Fifty dollars (\$50) for a minor industrial facility.
- (3) An annual operation fee, including the following:
  - (A) An annual base fee for each facility as follows:
    - (i) One thousand dollars (\$1,000) for a major permit.
    - (ii) Four hundred dollars (\$400) for a minor permit.
  - (B) An annual discharge flow fee for each facility as follows:

Daily Average Actual Flow in MGD	Fee <sup>1</sup>
.001 - .05	\$330
.051 - .1	\$490
.101 - .2	\$1,145
.201 - .3	\$1,635
.301 - .5	\$2,290
.501 - 1.0	\$2,805
1.001 - 2.0	\$4,905
2.001 - 5.0	\$7,360
5.001 - 10.0	\$11,445
10.001 - 15.0	\$16,350
15.001 - 30.0	\$22,890
30.001 - 50.0	\$31,065
50.001 - 100.0	\$39,240
>100.0	\$47,415

<sup>1</sup>Annual flow fees are reduced by twenty percent (20%) for discharges that are comprised of greater than ninety percent (90%) of noncontact cooling water.

(c) For NPDES coal mine permits, the permittee shall submit the following fees:

- (1) An NPDES application fee of one hundred dollars (\$100) for either a general permit or an individual permit for a new or renewed NPDES permit.
- (2) An NPDES application fee of fifty dollars (\$50) for either a general permit or an individual permit for a modified NPDES permit or a variance for an NPDES permit.
- (3) An annual operation fee according to the following:
  - (A) A facility for which a coal mine operator files a notice of intent under the general permit rules for coal mines must pay an annual fee of five hundred dollars (\$500) instead of the fee for an

individual permit required under clause (B). The annual fee must accompany the initial notice of intent and is due each year on the anniversary date of the date when the initial notice of intent was filed.

(B) A facility for which an individual coal mine permit is required must pay an annual fee based on the number of outfalls according to the following:

(1) 1 outfall	\$500
(2) 2 – 3 outfalls	\$750
(3) 4 – 6 outfalls	1,000
(4) 7 – 10 outfalls	\$1,500
(5) 11 – 20 outfalls	\$2,500
(6) 21 – 99 outfalls	\$3,500

(d) For NPDES stone quarry permits, the permittee shall submit the following fees:

(1) An NPDES application fee of one hundred dollars (\$100) for a new or renewed NPDES permit.

(2) An NPDES application fee of fifty dollars (\$50) for a modified NPDES permit or a variance for an NPDES permit.

(3) An annual fee based on the number of outfalls according to the following:

(A) 1 outfall	\$750
(B) 2 outfalls	\$1,500
(C) 3 outfalls	\$2,000
(D) 4 outfalls	\$2,500

(e) For NPDES municipal permits, the permittee shall submit the following fees:

(1) An NPDES application fee for a new or renewed NPDES permit according to the following:

(A) One hundred dollars (\$100) for a major municipal facility.

(B) One hundred dollars (\$100) for a minor municipal facility.

(2) An NPDES application fee for an NPDES permit modification request or variance request according to the following:

(A) Fifty dollars (\$50) for a major municipal facility.

(B) Fifty dollars (\$50) for a minor municipal facility.

(3) An annual operation fee, including the following:

(A) An annual base fee for each facility as follows:

(i) One thousand five hundred dollars (\$1,500) for a major permit.

(ii) Four hundred dollars (\$400) for a minor permit.

(B) An annual discharge flow fee for each facility as follows:

Daily Average Actual Flow in MGD	Fee
.001 - .05	\$410
.051 - .1	\$815
.101 - .2	\$2,725
.201 - .3	\$5,445
.301 - .5	\$6,810
.501- 1.0	\$8,170
1.001- 2.0	\$9,530
2.001- 5.0	\$10,895
5.001- 10.0	\$13,615
10.001- 15.0	\$17,700
15.001- 30.0	\$20,425
30.001- 50.0	\$27,235
50.001 - 100.0	\$29,955

(f) For NPDES state facility permits, the permittee shall submit the following fees:

(1) An NPDES application fee for a new or renewed NPDES permit according to the following:

(A) One hundred dollars (\$100) for a major state facility.

(B) One hundred dollars (\$100) for a minor state facility.

(2) An NPDES application fee for an NPDES permit modification request or variance request according to the following:

(A) Fifty dollars (\$50) for a major state facility.

- (B) Fifty dollars (\$50) for a minor state facility.
- (3) An annual operation fee, including the following:
- (A) An annual base fee for each facility as follows:
- (i) One thousand dollars (\$1,000) for a major permit.
- (ii) Four hundred dollars (\$400) for a minor permit.
- (B) An annual discharge flow fee for each facility as follows:

Daily Average Actual Flow in MGD	Fee
.001 - .05	\$330
.051 - .1	\$490
.101 - .2	\$1,145
.201 - .3	\$1,635
.301 - .5	\$2,290
.501 - 1.0	\$2,805
1.001 - 2.0	\$4,905
2.001 - 5.0	\$7,360
5.001 - 10.0	\$11,445
10.001 - 15.0	\$16,350
15.001 - 30.0	\$22,890
30.001 - 50.0	\$31,065
50.001 - 100.0	\$39,240
>100.0	\$47,415

- (g) For NPDES federal facility permits, the permittee shall submit the following fees:
- (1) An NPDES application fee for a new or renewed NPDES permit according to the following:
- (A) One hundred dollars (\$100) for a major federal facility.
- (B) One hundred dollars (\$100) for a minor federal facility.
- (2) An NPDES application fee for an NPDES permit modification request or variance request according to the following:
- (A) Fifty dollars (\$50) for a major federal facility.
- (B) Fifty dollars (\$50) for a minor federal facility.
- (3) An annual operation fee, including the following:
- (A) An annual base fee for each facility as follows:
- (i) One thousand dollars (\$1,000) for a major permit.
- (ii) Four hundred dollars (\$400) for a minor permit.
- (B) An annual discharge flow fee for each facility as follows:

Daily Average Actual Flow in MGD	Fee
.001 - .05	\$330
.051 - .1	\$490
.101 - .2	\$1,145
.201 - .3	\$1,635
.301 - .5	\$2,290
.501 - 1.0	\$2,805
1.001 - 2.0	\$4,905
2.001 - 5.0	\$7,360
5.001 - 10.0	\$11,445
10.001 - 15.0	\$16,350
15.001 - 30.0	\$22,890
30.001 - 50.0	\$31,065
50.001 - 100.0	\$39,240
>100.0	\$47,415

- (h) For NPDES semipublic facility permits, the permittee shall submit the following fees:
- (1) An NPDES application fee for a new or renewed NPDES permit according to the following:
- (A) One hundred dollars (\$100) for a major semipublic facility.
- (B) One hundred dollars (\$100) for a minor semipublic facility.
- (2) An NPDES application fee for an NPDES permit modification request or variance request according to the following:



- (A) Fifty dollars (\$50) for a major semipublic facility.
- (B) Fifty dollars (\$50) for a minor semipublic facility.
- (3) An annual operation fee, including the following:
  - (A) An annual base fee for each facility as follows:
    - (i) Seven hundred fifty dollars (\$750) for a major permit.
    - (ii) Two hundred dollars (\$200) for a minor permit.
  - (B) An annual discharge flow fee for each facility as follows:

Daily Average Actual Flow in MGD	Fee
.001 - .05	\$205
.051 - .1	\$410
.101 - .2	\$1,365
.201 - .3	\$2,735
.301 - .5	\$3,415
.501 - 1.0	\$4,100
1.001 - 2.0	\$4,785
2.001 - 5.0	\$5,465
5.001 - 10.0	\$6,835
10.001 - 15.0	\$8,835
15.001 - 30.0	\$10,250
30.001 - 50.0	\$13,665
50.001 - 100.0	\$15,035

- (i) For NPDES public water system permits, the permittee shall submit the following fees:
  - (1) An NPDES application fee for a new or renewed NPDES permit according to the following:
    - (A) One hundred dollars (\$100) for a major public water system facility.
    - (B) One hundred dollars (\$100) for a minor public water system facility.
  - (2) An NPDES application fee for an NPDES permit modification request or variance request according to the following:
    - (A) Fifty dollars (\$50) for a major public water system facility.
    - (B) Fifty dollars (\$50) for a minor public water system facility.
  - (3) An annual operation fee, including the following:
    - (A) An annual base fee for each facility as follows:
      - (i) One thousand dollars (\$1,000) for a major permit.
      - (ii) Four hundred dollars (\$400) for a minor permit.
    - (B) An annual discharge flow fee for each facility as follows:

Projected Daily Average Flow in MGD	Fee
.001 - .05	\$330
.051 - .1	\$490
.101 - .2	\$1,145
.201 - .3	\$1,635
.301 - .5	\$2,290
.501 - 1.0	\$2,805
1.001 - 2.0	\$4,905
2.001 - 5.0	\$7,360
5.001 - 10.0	\$11,445
10.001 - 15.0	\$16,350
15.001 - 30.0	\$22,890
30.001 - 50.0	\$31,065
50.001 - 100.0	\$39,240
>100.0	\$47,415

- (j) For NPDES stormwater general permits, the permittee shall submit the following fees:
  - (1) For stormwater exposed to industrial activity, one hundred seventy-five dollars (\$175), to be billed by the department on an annual basis.
  - (2) For industrial operation stormwater with no exposure, fifty dollars (\$50) to be submitted with each NOI.
  - (3) For stormwater associated with construction activity, one hundred seventy-five dollars (\$175) to



be submitted with each NOI.

**(4) For municipal separate storm sewer system, eighty-five dollars (\$85) to be submitted with each NOI.**

*(Water Pollution Control Division; [327 IAC 5-3-17](#))*

SECTION 4. [327 IAC 5-21-3](#) IS AMENDED TO READ AS FOLLOWS:

**[327 IAC 5-21-3](#) Permit application submission requirements**

**Authority:** [IC 13-14-8](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-16](#); [IC 13-18-2](#); [IC 13-18-3](#)

**Affected:** [IC 13-11-2](#); [IC 13-13-5-1](#); [IC 13-18-4](#)

Sec. 3. An application for an IWP permit must conform to the following:

- (1) Be completed on a form prescribed by the commissioner.
- (2) Be signed in accordance with [327 IAC 5-2-22\(a\)](#).
- (3) Be submitted to the commissioner according to the following time requirements:
  - (A) ~~Ne~~ **Not** later than one hundred eighty (180) days prior to the expiration date of an existing permit if the industrial user intends to continue discharging to the POTW.
  - (B) ~~Ne~~ **Not** later than one hundred eighty (180) days prior to the date when a new industrial discharger intends to commence discharging to a POTW.
  - (C) In the case of an initial issuance of an IWP permit to a significant industrial user or to an industrial user determined by the commissioner to be subject to the IWP permit requirements, ~~Ne~~ **not** later than one hundred twenty (120) days after the latter of:
    - (i) the promulgation of an applicable categorical pretreatment standard; or
    - (ii) the date of notification by the commissioner of a determination made according to section 2(a)(2) of this rule.
  - (D) ~~Ne~~ **Not** later than one hundred twenty (120) days prior to a planned expansion or modification of production or treatment facilities or processes that are likely to cause a significant increase in quantity of pollutants or a change in the nature of pollutants discharged to the POTW by an industrial user with an existing IWP permit.

**(4) Include the appropriate fee required under section 12 of this rule.**

*(Water Pollution Control Division; [327 IAC 5-21-3](#); filed Oct 10, 2000, 3:02 p.m.: 24 IR 315)*

SECTION 5. [327 IAC 5-21-12](#) IS ADDED TO READ AS FOLLOWS:

**[327 IAC 5-21-12](#) IWP permit application and annual fees**

**Authority:** [IC 13-13-5-2](#); [IC 13-14-8](#); [IC 13-16](#); [IC 13-18-4-1](#)

**Affected:** [IC 36-1-2-23](#)

**Sec. 12. (a) The fees in this section apply to IWP permit applications and annual operations as follows:**

- (1) Fees are not refundable after staff review and processing of the permit application has commenced.**
- (2) Application fees must be submitted with the application according to the time requirements in section 3 of this rule.**

**(b) For IWP permits, the permittee shall submit the following fees:**

- (1) An NPDES application fee for a new or renewed IWP permit according to the following:**
  - (A) One hundred dollars (\$100) for a major pretreatment facility.**
  - (B) One hundred dollars (\$100) for a minor pretreatment facility.**
- (2) An NPDES application fee for an IWP permit modification request or variance request according to the following:**
  - (A) Fifty dollars (\$50) for a major pretreatment facility.**
  - (B) Fifty dollars (\$50) for a minor pretreatment facility.**
- (3) An annual operation fee of three hundred fifty dollars (\$350).**

*(Water Pollution Control Division; [327 IAC 5-21-12](#))*

SECTION 6. [327 IAC 8-3-7](#) IS AMENDED TO READ AS FOLLOWS:

**327 IAC 8-3-7 PWS construction permit fees and annual operation fees****Authority:** [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-16](#); [IC 13-18-3-1](#); [IC 13-18-4-1](#)**Affected:** [IC 13-11-2](#); [IC 13-13-5-1](#); [IC 13-18-2](#); [IC 36-1-2-23](#)

Sec. 7. (a) The following governmental entities shall be ~~are~~ excluded from payment of fee as described the fees in subsection (b):

- (1) County, municipality, or township that is defined as a unit under [IC 36-1-2-23](#).
- (2) A nonprofit organization.
- (3) A conservancy district.
- (4) A school corporation.
- (5) A regional water or sewage district.

(b) The following fee schedule has been established to defer administrative costs, pursuant to [IC 13-16-1-2](#): **fees for a public water supply construction application must be remitted at the time a permit application is submitted to the department:**

TYPE	PROCESSING FEE
New public water supply treatment plant:	
Ground water:	
Up to 500,000 gallons per day	\$875
Greater than 500,000 gallons per day	\$1,750
Surface water:	
Up to 500,000 gallons per day	\$1,250
Greater than 500,000 gallons per day	\$2,500
Public water supply treatment plant expansion:	
Up to fifty percent (50%) design capacity:	
Greater than 500,000 gallons per day	\$1,250
Up to 500,000 gallons per day	\$625
Greater than fifty percent (50%) design capacity:	
Greater than 500,000 gallons per day	\$2,500
Up to 500,000 gallons per day	\$1,250
Other water treatment facilities:	
Wells	<del>\$500</del> <b>\$860</b>
Pump or pump station	<del>\$400</del> <b>\$175</b>
Chemical addition	<del>\$250</del> <b>\$430</b>
Storage tank	<del>\$200</del> <b>\$345</b>
Miscellaneous process modification	<del>\$50 per process</del> <b>\$100 per process</b>
All water distribution system:	
2,501 - 5,000 linear feet	<del>\$150</del> <b>\$260</b>
5,001 - 10,000 linear feet	<del>\$250</del> <b>\$430</b>
Greater than 10,000 linear feet	<del>\$500</del> <b>\$860</b>

~~(c) A fee shall be remitted with each application made in accordance with the schedule in subsection (b). Checks shall be made payable to the department of environmental management.~~

~~(d)~~ **(c)** The fee shall ~~is~~ not be refundable ~~once~~ **after** staff review and processing of the permit application has commenced.

**(d) For public water systems, the department shall bill for annual operation fees as follows:**

**(1) For a community water system with more than four hundred (400) service connections, the annual operation fee is ninety-five cents (\$0.95) per service connection.**

**(2) For a community water system with four hundred (400) or fewer service connections, the annual operation fee is three hundred fifty dollars (\$350).**

**(3) For a nontransient noncommunity water system, the annual operation fees are as follows:**

**Number served**

**Fee**

25 - 100	\$150
101 - 250	\$180
251 - 500	\$240
501 - 1,000	\$300
1,001 - 3,300	\$450
3,301 - 5,000	\$600
5,001 - 10,000	\$1,500
more than 10,000	\$3,000

(4) For a transient noncommunity water system, the annual operation fees are as follows:

Type of transient noncommunity water system	Fee
Groundwater	\$100
Purchase	\$50
Surface	\$200

(Water Pollution Control Division; [327 IAC 8-3-7](#); filed Oct 22, 1991, 5:00 p.m.: 15 IR 225; filed Mar 31, 1999, 1:50 p.m.: 22 IR 2498; readopted filed Jan 10, 2001, 3:23 p.m.: 24 IR 1518; readopted filed Nov 21, 2007, 1:16 p.m.: [20071219-IR-327070553BFA](#); readopted filed Jul 29, 2013, 9:21 a.m.: [20130828-IR-327130176BFA](#); readopted filed Jun 14, 2019, 1:59 p.m.: 20190710-IR327190246BFA)

SECTION 7. [327 IAC 15-16-5](#) IS AMENDED TO READ AS FOLLOWS:

### **[327 IAC 15-16-5](#) Application requirements**

**Authority:** [IC 13-14-8](#); [IC 13-16](#); [IC 13-18-10-4](#)

**Affected:** [IC 13-18-10-2](#); [IC 13-18-20-11.5](#); [IC 13-18-20-12](#); [IC 13-30](#)

Sec. 5. (a) The ~~owner/operator~~ **owner or operator, or both**, of a CAFO must submit all of the following to the department:

- (1) The application for an individual NPDES permit required by 40 CFR 122.21\* and [327 IAC 5-2-3](#) on forms provided by the department.
- (2) ~~The An~~ NPDES permit application fee of fifty dollars (\$50) ~~required by [IC 13-18-20-12](#) submitted with an application for the following:~~
- (A) An initial permit.
- (B) Renewal of a permit.
- (C) Modification of a permit.
- (D) A permit variance.

If this fee is not submitted, the permit application must be denied. ~~as provided in [IC 13-18-20-12\(b\)](#).~~

- (3) ~~The An~~ individual NPDES CAFO permit application fee of two hundred fifty dollars (\$250) ~~required by [IC 13-18-20-11.5](#) in addition to the fee required under subdivision (2), for:~~

- (A) an initial NPDES CAFO permit; and
- (B) a renewal of an individual NPDES CAFO permit.

- (4) A list of potentially affected persons, which includes those described in [IC 13-18-10-2](#) and landowners or occupants of land that adjoins the land that is the subject of the permit.

(b) In addition to the requirements in subsection (a), when expanding the CAFO to increase animal capacity, or manure containment capacity, **or both**, the ~~owner/operator~~ **person who is the owner or operator, or both**, must:

- (1) obtain a separate construction approval under [327 IAC 19](#) for each expansion by submitting:
  - (A) an application in accordance with [327 IAC 19-7-1](#); and
  - (B) ~~the a fee of one hundred dollars (\$100) required by [IC 13-18-10-2\(a\)\(5\)](#);~~ **one hundred seventy-five dollars (\$175);** and
- (2) comply with the public notice and comment requirements of [327 IAC 19-8-7](#).

The department shall incorporate the construction approval into the NPDES CAFO permit.

- (c) The department shall process the application in accordance with [327 IAC 5-3](#).

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office

of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204.

(Water Pollution Control Division; [327 IAC 15-16-5](#); filed Feb 6, 2012, 2:50 p.m.: [20120307-IR-327090213FRA](#), eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: [20170809-IR-327160003FRA](#))

SECTION 8. [327 IAC 15-16-10](#) IS AMENDED TO READ AS FOLLOWS:

**[327 IAC 15-16-10](#) Annual report, annual fees, and general conditions**

**Authority:** [IC 13-13-5-1](#); [IC 13-15-1-2](#); [IC 13-15-2-1](#); [IC 13-16](#)

**Affected:** [IC 13-18-10](#)

Sec. 10. (a) Any person with a facility subject to this rule shall submit an annual report to the commissioner by February 15 of each year for the previous calendar year with the following information:

(1) The requirements listed in 40 CFR 122.42(e)(4)\*.

(2) Information specified under [327 IAC 15-4-2](#) and [327 IAC 15-4-3](#) for any instance of noncompliance. If a spill occurs, the spill must be reported to the department within two (2) hours of discovery, in accordance with [327 IAC 2-6.1-7](#).

(b) All reports and information required to be submitted under this rule ~~shall~~ **must** be signed and certified in accordance with [327 IAC 15-4-3\(g\)](#).

(c) It ~~shall~~ **is** not be a defense in an enforcement action that an ~~owner/operator~~ **owner or operator, or both**, would have had to halt or reduce the permitted activity in order to maintain compliance with the requirements of this rule.

(d) Samples and measurements taken for the purpose of monitoring ~~shall~~ **must** be representative of the monitored activity.

(e) The ~~owner/operator~~ **owner or operator, or both**, shall comply with the requirements of [327 IAC 5-2-14](#).

(f) The ~~owner/operator~~ **owner or operator, or both**, shall give notice to the commissioner as soon as possible of any planned physical alterations or additions to the permitted facility when the alterations or additions would cause the facility to become a new source under 40 CFR 122.29(b)\*.

(g) The ~~owner/operator~~ **owner or operator, or both**, shall give notice to the commissioner of any planned change in the permitted facility or activity that may result in noncompliance with the requirements of this rule.

**(h) In addition to application fees required under section 5 of this rule, each CAFO operation must pay an annual fee of one hundred dollars (\$100) in accordance with billing from the department.**

\*These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, [www.gpo.gov](http://www.gpo.gov), or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, IN 46204.

(Water Pollution Control Division; [327 IAC 15-16-10](#); filed Feb 6, 2012, 2:50 p.m.: [20120307-IR-327090213FRA](#), eff Jul 1, 2012; filed Jul 12, 2017, 8:47 a.m.: [20170809-IR-327160003FRA](#))

SECTION 9. [327 IAC 19-7-1](#) IS AMENDED TO READ AS FOLLOWS:

**[327 IAC 19-7-1](#) Application requirements**

**Authority:** [IC 13-14-8-7](#); [IC 13-15-2-1](#); [IC 13-16](#); [IC 13-18-10-4](#)

**Affected:** [IC 13-11-2](#); [IC 13-14](#); [IC 13-15-8-2](#); [IC 13-18-10-2](#); [IC 13-18-10-2.1](#); [IC 13-30](#); [IC 25-17.6](#)

Sec. 1. (a) An application under this rule is required for all CFOs not previously regulated under:

- (1) this article;
- (2) [327 IAC 16](#) before its repeal; or
- (3) [327 IAC 5](#) or [327 IAC 15](#) before their repeal.

(b) Three (3) copies of the application package, one (1) of which may be electronic, for an approval of a CFO must be submitted to the commissioner in a format specified by the department.

(c) A complete application package must include all of the following information:

- (1) A completed application on forms provided by the department.
- (2) A plot map as described in section 2 of this rule.
- (3) A farmstead plan as described in section 3 of this rule.
- (4) A waste management system drawing as described in section 4 of this rule.
- (5) A manure management plan as described in section 5 of this rule.
- (6) Soil and water table information from test holes for proposed manure storage facilities that are conducted by a soil scientist registered under the Indiana board of registration for soil scientists, a professional geologist certified in Indiana under [IC 25-17.6](#), or a professional engineer registered in Indiana. The number of test holes must be sufficient to adequately characterize the seasonal water table and soil. Test holes for concrete manure storage facilities must be at least two (2) feet below the base of the structure. If the manure storage facility is earthen, test holes must be:
  - (A) placed at a rate of two (2) holes for the first acre of storage and one (1) additional hole for each additional half acre of storage;
  - (B) evenly distributed throughout the storage structure;
  - (C) at least five (5) feet below the base of the structure for non-karst areas; or
  - (D) in accordance with [327 IAC 19-12-2\(b\)\(3\)](#) in areas of karst terrain.
- (7) A description of any proposed alternative to a specific requirement in this article to demonstrate equivalent environmental and human health protection in accordance with [327 IAC 19-5](#).
- (8) A list of potentially affected parties, which includes those described in [IC 13-18-10-2](#) and [IC 13-15-8-2](#).
- (9) A **CFO construction permit application** fee of ~~one hundred dollars (\$100)~~; in accordance with ~~[IC 13-18-10-2\(a\)\(5\)](#)~~: **one hundred seventy-five dollars (\$175) for each of the following that applies:**
  - (A) Construction of a CFO.**
  - (B) Expansion of a CFO that increases one (1) or both of the following:**
    - (i) Animal capacity.**
    - (ii) Manure containment capacity.**
- (10) Other plans or supplemental information that may be required by the commissioner to ensure compliance with this article. The commissioner shall provide written documentation of the basis for requiring any other plans or supplemental information.
- (11) A statement affirming that AFOs adjacent to or contiguous with the CFO are not under common ownership or control of the applicant.
- (12) Copies of any written waivers related to reduction of setback distances.
- (13) Copies of all land use agreements as described in [327 IAC 19-14-2\(b\)](#).

(d) Existing CFOs that are expanding must also provide a certification on a form provided by the department that enough acreage exists for land application. This certification must include any information provided to demonstrate that a smaller amount of acreage can be used under [327 IAC 19-14-2\(c\)](#). This certification must be submitted in writing to the department.

(Water Pollution Control Division; [327 IAC 19-7-1](#); filed Feb 6, 2012, 2:58 p.m.: [20120307-IR-327090615FRA](#), eff Jul 1, 2012; readopted filed Jun 6, 2018, 1:59 p.m.: [20180704-IR-327180171BFA](#))

SECTION 10. [327 IAC 19-9-2](#) IS ADDED TO READ AS FOLLOWS:

## Rule 9. Operating Record and Annual Fees

### [327 IAC 19-9-2](#) Annual fees

**Authority:** [IC 13-14-8-7](#); [IC 13-15-2-1](#); [IC 13-16](#); [IC 13-18-10-4](#)

**Affected:** [IC 13-11-2](#); [IC 13-14](#); [IC 13-15-8](#); [IC 13-18-10-2](#); [IC 13-18-10-2.1](#); [IC 13-30](#); [IC 25-17.6](#)

**Sec. 2. In addition to application fees required under [327 IAC 19-7-1](#), each CFO must pay an annual fee of one hundred dollars (\$100) in accordance with billing from the department.**

*(Water Pollution Control Division; [327 IAC 19-9-2](#))*

[Notice of Public Hearing](#)

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